

A-6266 (Variance Request)

Reconfigure a pair of existing front steps that would encroach a maximum of eleven feet, five and one-half inches (11'-5½") forward of the twenty-five (25) foot front (Primrose Street) building restriction line.

Mr. & Mrs. Alex Sternhell
27 Primrose Street

**CHEVY CHASE VILLAGE
BOARD OF MANAGERS
MARCH 18, 2013 MEETING**

STAFF INFORMATION REPORT

TO: BOARD OF MANAGERS
FROM: ELLEN SANDS, PERMITTING AND CODE ENFORCEMENT COORDINATOR
DATE: 3/14/2013
SUBJECT: HEARING OF APPEAL CASE NO. A-6266 VARIANCE REQUEST
MR. & MRS. ALEX STERNHELL, 27 PRIMROSE STREET
RECONFIGURE A PAIR OF EXISTING FRONT STEPS THAT WOULD ENCROACH A MAXIMUM
OF ELEVEN FEET, FIVE AND ONE-HALF INCHES (11'-5 1/2") FORWARD OF THE TWENTY-FIVE
(25) FOOT FRONT (PRIMROSE STREET) BUILDING RESTRICTION LINE.

NOTICE REQUIREMENTS: Abutting Owners; Public Notice

APPLICABLE CHEVY CHASE BUILDING REGULATION:

The Chevy Chase Village Code § 8-17 (c) states:

No structure or play equipment of any description shall be erected within twenty-five (25) feet of the front line of any lot.

APPLICABLE COVENANTS:

"That no structure of any description shall be erected within twenty-five (25) feet of the front line of said premises and that no stable shall be erected except on the rear of said premises."

FACTUAL AND BACKGROUND INFORMATION:

The house is located on the north side of Primrose Street.

The existing covered front porch of the house has a maximum encroachment (to the farthest projection of the porch roof) of eleven feet, eleven and one-half inches (11'-11 1/2") forward of the twenty-five (25) foot front building restriction and covenant setback line.

The proposed steps would encroach eleven feet, five and one-half inches (11'-5 1/2") forward of the front building restriction and covenant setback line.

The proposed steps do not increase the existing encroachment at the property, but the fact that they are new construction means they are subject to the front setback requirement and thus require a variance to be constructed.

The Applicants obtained a building permit (#A-5952) in October of 2011 to construct an expanded terrace on the west side of the house and to construct a rear addition. The expanded terrace, which required a variance because it would be forward of the front BRL, encroached three feet, four inches (3'-4") forward of the front BRL, less than the farthest portion of the front porch.

The Applicants subsequently submitted an application to the Historic Preservation Commission to remove the existing steps (currently located at the east and west ends of the front porch) and to construct a single, central set of front steps. HPC recommended denial of that application.

The Applicants then submitted an application to the Board of Appeals for Montgomery County. That case, A-6358, was heard on October 17, 2102. The appeal request was granted in part and denied in part. The Board found that the request “to remove the east-side porch stairs and enclose that end of the porch with a permanent planter” was incorrectly denied, but that “the HPC correctly denied the Appellants’ request to construct centered, front-loading steps to access their porch, and correctly denied the Appellants’ request to remove and enclose the west-side stairs”.

Subsequent to that hearing, the landscape architect for the Applicants, Lila Fendrick of Lila Fendrick Landscape Architecture, met on-site with staff from HPC. Based on Ms. Fendrick’s understanding of that conversation Ms. Fendrick submitted a preliminary plan to HPC, which was reviewed on February 27, 2013. HPC indicated that there was support, although not unanimous support, of the proposal. The Applicants were directed to return to the Village Board to have the variance request heard and then return to HPC for a final hearing (see enclosed email).



Figure 1: View of 27 Primrose Street.



Figure 2: Close up of the existing steps (behind the cheekwall) on the east end of the porch.



Figure 3: View of the existing east steps looking back towards Primrose Street.



Figure 4: View of the west steps (behind cheekwall).



Figure 5: View of the west steps (removed) looking back toward Primrose Street.

In previous cases involving covenant setbacks, the Board has found that the covenants were not enforceable because:

- a) the uncovered steps and stoops were constructed at the time that the covenants applicable to the property were placed, or shortly thereafter, so it was presumed that the covenant authors did not intend those protrusions to be classified as "structures" for the purposes of the covenants; or
- b) the covenant authors did not intend certain uncovered steps and stoops to be deemed "structures" for the purposes of the front covenant setback, where such uncovered steps and stoops are installed as a matter of necessity to address the change in elevation from the ground to the entrance of a house and which steps and stoops are the minimum necessary to provide reasonable access; or
- c) a large percentage of properties on the same block had projections of a certain type forward of the front building and covenants restriction line, so it was presumed that the covenant authors did not intend those protrusions to be classified as "structures" for the purposes of the covenants.

Previous cases of variance requests for encroachments forward of the front building restriction and covenant setback line in this block include: 12 Primrose Street (for a portico over an existing stoop); 11 Primrose Street (for uncovered front steps encroachment); and 27 Primrose Street (for an expanded terrace encroachment). Copies of the decisions for those cases are included at the end of this Staff Report.

In previous cases regarding encroachments forward of the front building restriction and covenant setback line, it has been determined that Primrose Street represents a unique condition in that a large percentage of the houses on the block were built forward of that line. A survey of the block, commissioned by Mr. & Mrs. Stewart Bainum of 12 Primrose Street, is included at the end of this Staff Report.

The Applicants were previously granted a series of special permits at the February 2013 regular Board meeting to construct a pair of cheekwalls; install a handrail and a lamppost alongside a relocated walkway; and to replace the driveway.

The arborist has prepared a tree protection plan for the construction of the proposed front steps. Tree protection already in place for the ongoing work would remain in place throughout the construction of the proposed front steps and front walkway.

To date there have been no letters received from abutting or confronting neighbors regarding the project.

Applicable Fees: Building Permit Application: Previously assessed Variance Application Fee: \$300.00

RELEVANT PRECEDENTS:

Recent precedents for stoops and steps that encroach forward of the twenty-five (25) foot front building restriction line include:

In May 2005 Mr. & Mrs. Justin Bausch of 12 East Lenox Street were granted a variance to **extend** the uncovered steps leading to the front porch. In the Bausch case the covenants were worded to prohibit "any stable, carriage houses or shed" forward of the twenty-five (25) foot front building restriction line, rather than the more standard language prohibiting "structure[s] of any description" forward of that setback. In December of 2010, Mr. & Mrs. Robert Maruszewski of 127 Grafton Street were granted a variance to **enlarge** a non-conforming stoop which would encroach five feet, six inches (5'-6") forward of the twenty-five (25) foot front building restriction and covenant setback

line, an additional two feet, eleven inches (2'-11") farther than the existing stoop. In December 2010, Mr. Gregory L. Dixon and Ms. Susan F. Dixon, Co-Trustees of the Gregory L. Dixon Revocable Trust and the Susan F. Dixon Revocable Trust, of 5500 Montgomery Street, were granted a variance to **expand** their front stoop that would extend three (3) feet forward of the twenty-five (25) foot front building restriction and covenant setback line. In January of 2011, Case A-5854, Joanne Kyros and Thomas Schaufelberger of 135 Grafton Street were granted a variance to **enlarge** an existing non-conforming stoop with steps and construct three (3) treads that would encroach five (5) feet forward of the twenty-five (25) foot front building restriction and covenant setback line, an additional two (2) inches farther than the existing treads. In February of 2012, Mr. & Mrs. Andrew Marino, of 11 Primrose Street, were granted a variance to **relocate and construct** non-conforming front steps, leading to a porch, both of which were forward of the twenty-five (25) foot front building restriction and covenant setback line. The proposed steps would encroach twelve feet, eight inches (12'-8") in front of this twenty-five (25) foot front setback line, an additional ten (10) inches beyond the existing steps. In April of 2012 Mr. & Mrs. D. Blake Bath were granted a variance to **reconstruct** the front steps and add an additional step leading from the front walkway to the front porch forward of the twenty-five (25) foot front building restriction and covenant setback line. In May of 2012 Dr. & Mrs. Charles Bahn of 118 Hesketh Street were granted a variance to **reconstruct** the front steps from the front walkway to the front porch, adding one tread, a portion of which would be located forward of the twenty-five (25) foot front building restriction and covenant setback line. In June of 2012, Mr. & Mrs. Jeffrey Shuren were granted a variance to **reconstruct** steps that would extend an additional one foot, one inch (1'-1") beyond the existing steps for a maximum encroachment of six feet, eight inches (6'-8") forward of the twenty-five (25) foot front building restriction line. On December 10, 2012 the Chevy Chase Village Board of Managers considered the request of Mr. & Mrs. Steven Sprenger of 5501 Park Street for a variance to construct treads leading to a front stoop in the front (Park Street) yard which would encroach forward of the front building restriction line. A motion to approve the request for a variance failed; therefore, construction of the proposed treads was **denied** per the Village Manager's decision dated October 25, 2012. In that case there had not previously existed an encroachment forward of the front BRL and covenant setback line at the property nor was there an established encroachment throughout the rest of that block of Park Street.

FINDINGS REQUIRED:

1. The proposed variance is required because special conditions exist whereby the enforcement of the requirements of the Village Building Code would result in an unwarranted hardship and injustice to the owner.
2. The proposed variance will most nearly accomplish the intent and purpose of the requirements of the Village Building Code; and
3. Except for variances from the requirements of Sections 8-22, 8-26 or Article IV of the Village Regulations, the structure authorized by the proposed variance would not violate any covenant applicable to the property.

Draft Motion

I move to direct staff to draft a decision **APPROVING/DENYING** the variance request in case A-6266, based on the findings that ...

Attachments:

A: Survey of Primrose Street

B: Copies of decisions for:

12 Primrose Street; 11 Primrose Street; and 27 Primrose Street

CASE NO. A-4504
Appeal of Mr. and Mrs. Stewart W. Bainum, Jr.
(Hearing held on November 12, 2002)

DECISION OF THE BOARD OF MANAGERS

This proceeding is an application for a variance pursuant to Section 8-12(b) of the Chevy Chase Village Code. The applicants propose to construct a portico over an existing stoop in front of their residence. The portico would extend 5 feet 6 inches in front of the 25-foot front building restriction line.

The applicants seek a variance from the requirements of Section 8-17(b) of the Village Code which provides: ". . . no structure or play equipment of any description shall be erected within twenty-five (25) feet of the front line of any premises . . .", and from the requirements of Section 8-17(k) which provides: "No awning, canopy or other protrusion shall be erected between the front building restriction line and the front lot line."

The subject property is Lot 38, Block 57, in the Chevy Chase, Section 2 subdivision, also known as 12 Primrose Street, Chevy Chase, Maryland 20815, in the R-60 zone. Notice of the hearing was mailed to all abutting property owners, posted at the Village Hall and posted on the property on October 31, 2002.

The applicants submitted extensive documentation in support of the application, including, but not limited to, a statement in support of the application, a house location survey, a copy of the covenants applicable to the subject property, site plans

showing the location of the proposed portico and elevations and photographs depicting the appearance of the proposed portico. The applicants submitted a location drawing prepared by Drum, Snell & Associates, LC, Civil Engineers and Land Surveyors, showing the setbacks of houses, covered stoops and other improvements for each property on Primrose Street between Connecticut Avenue and Brookeville Road. In addition, the applicants submitted a booklet containing photographs of the front of each property on Primrose Street between Connecticut Avenue and Brookeville Road as well as architectural details of the proposed portico and the existing improvements on the subject property. Also, the applicants submitted documents indicating approval of the proposed construction by the Montgomery County Historic Preservation Commission.

At the hearing, Stephen Orens, Esquire, the applicants' attorney, appeared and represented to the Board that the applicants have communicated with virtually all of their neighbors on Primrose Street. Mr. Orens noted that several of the neighbors have submitted letters in support of the application. He explained that the applicants desire to construct the portico to increase the comfort and safety of visitors while they are waiting on the existing front stoop for the applicants to open the front door. Mr. Orens noted that the front wall of the house will not be changed. The existing stoop and steps would not be extended. According to Mr. Orens, the

applicants are simply bringing the existing pillars and portico forward to cover the stoop.

Mr. Orens reviewed the location drawing and photographs of other houses on Primrose Street. He asserted that porticos are usual and customary on Primrose Street. He stated that the surveyor measured the distances from the walls, stoops and porticos of other properties on Primrose Street to the front property lines. Mr. Orens pointed out that the proposed portico would encroach into the front setback less than some of the other porches and covered stoops on the south side of Primrose and identified the houses at 6 Primrose and 4 Primrose as examples.

Mr. Orens stated that virtually all houses on the north side of Primrose Street have protrusions into the 25-foot setback. In Mr. Orens' opinion, the purposes and intent of the building regulations and covenants would be served by granting the requested variance because the primary purpose of the covenants is to maintain the character of the neighborhood. Inasmuch as the vast majority of houses along both sides of Primrose Street have covered stoops or porches that encroach into the 25-foot setback, the addition of the proposed portico would not alter the character of the neighborhood nor would it block any existing sight lines or vistas. Mr. Orens suggested that it would be an injustice to the applicants to prohibit them from having a covered stoop when most other homes on the block have such a structure. He noted that the Historic Preservation Commission has approved the covered portico. Mr. Orens asserted

that the circumstances of the applicants' property are unique and would not set a precedent because the unusual combination of circumstances are not likely to be found elsewhere in the Village.

Wayne Good, the applicants' architect, testified in support of the application. Mr. Good reviewed the architecture of the house. Mr. Good stated that the applicants' house is almost identical to a house located next door at 16 Primrose Street. He pointed out that the house at 16 Primrose Street has a covered stoop that encroaches into the 25-foot setback. Mr. Good explained that the portico would have the same architecture as the existing facade and that the applicants do not propose to modify the stoop or steps. He pointed out that the house faces north and, as a result, the stoop can be especially slippery during the winter because snow, sleet and ice are shaded from the sun by the house and, therefore, melting occurs slowly. Mr. Good testified that, after reviewing the appearance of the other porticos along Primrose Street, he believes that some of the porticos were built at the time of the original construction of the houses. Others may have been added after initial construction.

Mr. Orens suggested that the character of the block was established when the houses were originally built with covered stoops. He concluded that there is no way for the applicants to have a covered stoop without encroaching into the 25-foot

building code setback as the front wall of the house is only a few inches more than 25 feet from the front property line.

No testimony or other evidence in opposition to the application was submitted.

Based upon the testimony and evidence of record, the Board makes the following findings in connection with this matter:

1. On almost all blocks in the Village, virtually all structures are set back at least 25 feet from the front property line.

2. In contrast to the established setback in the Village as described above, Primrose Street, between Connecticut Avenue and Brookeville Road, is very unusual in that most of the houses along this block have covered stoops or porches that are located less than 25 feet from their respective front property lines.

3. The undisputed testimony of the applicants' architect is that the proposed open portico would encroach no farther into the front setback than the existing stoop.

4. The evidence reveals that the proposed portico would encroach into the front setback less than the covered stoops or porches at 4 Primrose Street, 6 Primrose Street, 7 Primrose Street, 9 Primrose Street, 11 Primrose Street, 17 Primrose Street, 21 Primrose Street, 23 Primrose Street, 25 Primrose Street, 27 Primrose Street and 29 Primrose Street.

5. The proposed portico would encroach into the front setback by about the same amount as the covered stoops at 8 Primrose Street and 22 Primrose Street.

6. In view of the foregoing, the proposed portico would not alter the established building line for porticos on Primrose Street between Connecticut Avenue and Brookeville Road.

7. Among the various intents and purposes of the Village Building Code are to maintain open vistas along Village streets and to provide for the adequate flow of light and air. Inasmuch as many other houses on this block of Primrose Street have covered porches and porticos that encroach into the 25-foot building code setback to the same or a greater extent than would the applicants' proposed portico, and further, that the applicants' portico would be open, the proposed portico would not materially block any existing vista, nor would it materially interfere with the flow of light and air along Primrose Street.

8. Another purpose of the Village Building Code is to maintain the character of the neighborhood. The proposed portico would not alter the character of the neighborhood as most other houses have similar encroaching porticos and the proposed portico would be architecturally consistent with the existing house.

9. Because the front wall of the house is located only a few inches more than 25 feet from the front property line,

the applicants could not construct a portico in full compliance with the 25-foot building code setback.

10. Requiring the applicants to forego a portico when almost all of their neighbors along Primrose Street have front porticos, would impose a hardship and injustice on them without serving any public purpose.

11. The proposed portico would not violate any enforceable covenants applicable to the subject property.

Based upon the foregoing findings, the Board concludes that (1) the proposed variance is required because special conditions exist whereby the enforcement of the requirements of the Village Building Code would result in unwarranted hardship and injustice to the owners; (2) the proposed variance will most nearly accomplish the intent and purpose of the requirements of the Village Building Code; and (3) the proposed construction would not violate any enforceable covenants applicable to the subject property.

Accordingly, the requested variance from the requirement that "no structure or play equipment of any description shall be erected within twenty-five (25) feet of the front line of any premises . . ." and from the requirement that "no awning, canopy or other protrusion shall be erected between the front building restriction line and the front lot line" is granted, provided however, that:

1. The portico shall be constructed and maintained in accordance with the plans and specifications submitted for the record in this matter;

2. The portico shall not be enclosed; and

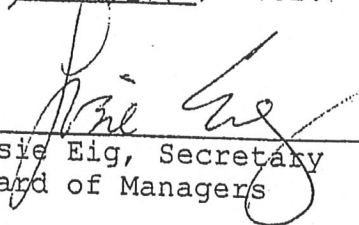
3. The portico shall be constructed on or before December 9, 2003 or this variance shall become void.

The Chevy Chase Village Board of Managers hereby adopts the following Resolution:

BE IT RESOLVED by the Board of Managers of Chevy Chase Village that the Decision stated above be adopted as the Decision required by Section 8-12(d) of the Chevy Chase Village Code, and the Village Manager be and he is hereby authorized and directed to issue a building permit consistent with this Decision.

The foregoing Resolution was adopted by the Chevy Chase Village Board of Managers with the following members voting in favor: George L. Kinter, Douglas B. Kamerow, Richard S. Rodin and Betsy Stephens. Margot W. Anderson and Samuel A. Lawrence voted against the resolution and would have denied the requested variance. Susie Eig abstained.

I DO HEREBY CERTIFY, that the foregoing Decision and Resolution were approved and adopted by the Chevy Chase Village Board of Managers on this 9 day of DECEMBER, 2002.



Susie Eig, Secretary
Board of Managers

ccv:bainum-4504.opn

CASE NO. A-5952
Variance Request of Alexander M. Sternhell and Kristy-Lynn Skupa Sternhell
(Hearing held July 11, 2011)

DECISION OF THE BOARD OF MANAGERS

Summary of Case

This proceeding involves an application for a variance pursuant to Section 8-12(b) of the Chevy Chase Village Code (the "Village Code"). Alexander M. Sternhell and Kristy-Lynn Skupa Sternhell (the "Applicants") proposed to construct a terrace on the west side of their house, a portion of which would encroach 3.3 feet in front of the 25-foot front building restriction line. The terrace would connect the existing front porch with a porch on the west side of the house. The property is known as Lot 15 and part of Lot 16, in Block 58, in the "Chevy Chase, Section 2" subdivision, also known as 27 Primrose Street, Chevy Chase, Maryland 20815 (the "Subject Property"). The Village Code prohibits structures from being erected within 25 feet of the front line of any lot and protrusions from being erected in front of the front building restriction line. Accordingly, a variance is requested.

Applicable Law

The application seeks a variance from the requirements of Section 8-17(c) of the Village Code, which provides, in pertinent part: "No structure or play equipment of any description shall be erected within twenty-five (25) feet of the front line of any lot" and from the requirements of Section 8-17(q) which provides: "No awning, canopy or other protrusion shall be erected between the front building restriction line and the front lot line."

Section 8-11(c) provides that the Board of Managers may grant a variance if it finds that the proposed variance is (1) "required because special conditions exist whereby the enforcement of the

requirements of [the building regulations] would result in unwarranted hardship and injustice to the owner;" (2) would most nearly accomplish the intent and purpose of the requirements of [the building regulations];" and (3) "the structure authorized by the proposed variance would not violate any covenant applicable to the property."

Procedural History

The Applicants submitted an Application for a Variance dated June 17, 2011. Notice of the hearing was posted at the Village Hall, posted at the property, and mailed to all abutting and confronting property owners on June 30, 2011. The notice indicated that the Board of Managers would hold a public hearing in the Village Hall on July 11, 2011 at 7:30 p.m. to consider the Applicants' request. The hearing was held as scheduled.

Summary of Evidence

The Applicants submitted the following materials in support of the request: (i) the aforementioned Application for a Variance; (ii) a copy of the denied Building Permit Application; (iii) a stormwater management and sediment control plan; (iv) elevation drawings; (v) an architectural site plan showing the proposed terrace; and (vi) a copy of the applicable covenants. A Staff Report and two photographs of the Subject Property were submitted for the record by Village staff. The Board took administrative notice of the record of Case A-4504 (2002), concerning the request of Mr. and Mrs. Stewart W. Bainum, Jr. of 12 Primrose Street. In that case, the Bainums were granted a variance to construct a portico over an existing stoop in front of their residence, extending 5 feet, 6 inches in front of the 25-foot front building restriction line. The Bainums submitted in their case a location drawing prepared by Drum, Snell & Associates, LC, Civil Engineers and Land Surveyors, showing the setbacks of houses, covered stoops, and other improvements for each property on Primrose Street between Connecticut Avenue and Brookville

Road. In addition, the applicants submitted a booklet containing photographs of the front of each property on Primrose Street between Connecticut Avenue and Brookville Road. The location drawing and photographs revealed that numerous porches and covered stoops encroach into the 25-foot front setback along Primrose Street to the same or greater extent than the variance of 5 feet, 6 inches granted to the Bainums, including those at 4 Primrose Street, 6 Primrose Street, 7 Primrose Street, 8 Primrose Street, 9 Primrose Street, 11 Primrose Street, 17 Primrose Street, 21 Primrose Street, 22 Primrose Street, 23 Primrose Street, 25 Primrose Street, 27 Primrose Street (the Subject Property), and 29 Primrose Street.

The Applicants assert that the Subject Property is subject to special conditions because the existing house is non-conforming in that the front porch currently extends beyond the 25-foot front building restriction line. As reflected by the plans submitted for the record, the existing porch encroaches approximately 9.9 feet into the required 25-foot front setback. The proposed terrace would extend only 3.3 feet beyond the 25-foot front building restriction line.

The Applicants assert that enforcement of the building regulations would result in an unwarranted hardship and injustice because if the variance is denied, the Applicants would be unable to connect the existing front and west side porches. The Applicants further assert that the proposed variance would most nearly accomplish the intent and purpose of the requirements of Chapter 8 of the Village Code because the requested encroachment is minimal and would not be detrimental to the enjoyment of any neighboring property. The Applicants assert that the proposed terrace would maintain the historical integrity of the house.

A covenant applicable to the Subject Property imposed by the Chevy Chase Land Company provides that, "no structure of any description shall be erected within twenty-five (25) feet of the front line of said premises; and no stable shall be erected except on the rear of said premises. In the

case of corner lots any line bordering upon any street, avenue, or parkway, shall be considered a front line."

The Applicants' architect, David Jones, appeared at the hearing and testified in support of the application. He stated that the existing house is not centered on the lot; it is situated on the east side and therefore has a large yard on the west side of the property. Mr. Jones explained that, as a result of the house's proximity to the east lot line, the Applicants want to architecturally orient the house toward the yard on the west side and rear by constructing the proposed terrace and a rear addition. He asserted that the requested variance is minimal, given that the encroachment would be less than the existing porch. He noted that the terrace would be small, measuring approximately only 3.5 feet in width. He also noted that the design had received HPC approval.

Joann Faley of 25 Primrose Street, the Applicants' adjoining neighbor to the west, testified in support of the request. She stated that she has reviewed the plans and the proposed construction would be an attractive improvement.

No correspondence or testimony was presented in opposition to the Applicants' request.

Findings of Fact

Based upon the testimony and evidence of record, the Board makes the following findings in connection with this matter:

1. On almost all blocks in the Village, virtually all structures are set back at least 25 feet from the front property line;
2. In contrast to the established setback in the Village as described above, Primrose Street, between Connecticut Avenue and Brookville Road, is very unusual in that most of the houses along this block have covered stoops or porches that are located less than 25 feet from their respective front property lines;

3. The existing house is non-conforming in that the front porch encroaches approximately 9.9 feet into the 25-foot front setback from Primrose Street;
4. Numerous porches and covered stoops on other nearby properties encroach into the 25-foot front setback along Primrose Street;
5. The proposed terrace would extend into the setback from Primrose Street approximately 6.6 feet less than the existing non-conforming porch;
6. Among the various intents and purposes of the Village Code are to maintain open vistas along Village streets and to provide for the adequate flow of light and air. Inasmuch as many other houses on this block of Primrose Street have covered porches and stoops that encroach into the 25-foot building code setback to the same or a greater extent than would the Applicants' proposed terrace, and further, that the Applicants' terrace would be open, the proposed terrace would not materially block any existing vista, nor would it materially interfere with the flow of light and air along Primrose Street;
7. Another purpose of the Village Code is to maintain the character of the neighborhood. The proposed terrace would not alter the character of the neighborhood as most other houses have encroaching porches or porticos and the proposed terrace would be architecturally consistent with the existing house;
8. Although the Village strictly enforces covenants in connection with variance requests, the evidence reveals that porches, stoops, and porticos along Primrose Street between Connecticut Avenue and Brookville Road historically have not been constructed in accordance with the subject 25-foot front setback;
9. In view of the foregoing, the proposed terrace would not alter the established building line on Primrose Street between Connecticut Avenue and Brookville Road;

10. The proposed terrace would not materially violate any enforceable covenant applicable to the Subject Property; and

11. No objections to the requested variances have been raised.

Conclusions

Based upon the foregoing findings, the Board concludes the following:

1. The proposed variance is required because special conditions exist whereby the enforcement of the requirements of the Village Building Code would result in unwarranted hardship and injustice to the owner;

2. The proposed variance would most nearly accomplish the intent and purpose of the requirements of the Village Building Code; and

3. The proposed variance would not violate any covenant applicable to the property.

Accordingly, the requested variance from the requirements of Section 8-17(c) and Section 8-17(q), as described above, is GRANTED, provided, however, that:

1. The terrace described above shall be constructed and maintained in accordance with the plans and specifications submitted for the record in this matter as amended; and

2. The construction shall be completed on or before the 11th day of July, 2012.

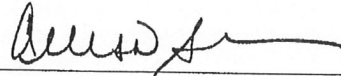
Resolution

The Chevy Chase Village Board of Managers hereby adopts the following Resolution:

BE IT RESOLVED by the Board of Managers of Chevy Chase Village that the decision stated above be adopted as the decision as required by Section 8-12(d) of the Chevy Chase Village Code, and the Village Manager be and is hereby authorized and directed to issue a building permit for the construction of a terrace in accordance with the above conditions and the plans and specifications submitted for the record of this matter.

The foregoing Decision and Resolution was adopted by the Chevy Chase Village Board of Managers, with the following members voting in favor: Patricia S. Baptiste, Dr. Lawrence C. Heilman, Peter T. Kilborn, Richard Ruda, Allison W. Shuren, and David L. Winstead. Gary Crockett was not present for the hearing and did not participate in this decision.

I HEREBY CERTIFY that the foregoing Decision and Resolution were approved and adopted by the Chevy Chase Village Board of Managers on this 3 day of ^{August}~~July~~ 2011.



Allison W. Shuren, Secretary
Board of Managers

CASE NO. A-5917
Special Permit Request of Andrew C. Marino and Carissa S. Marino
(Hearing held June 13, 2011)

DECISION OF THE BOARD OF MANAGERS

Summary of Case

This proceeding is an application for a special permit pursuant to Section 8-12(b) of the Chevy Chase Village Code. Andrew C. Marino and Carissa S. Marino (the "Applicants") propose to demolish the detached garage located in the north (rear) yard of the property known as part of Lot 1, in Block 58, in the "Chevy Chase, Section 2" subdivision, also known as 11 Primrose Street, Chevy Chase, Maryland 20815 (the "Subject Property"). The proposed demolition is part of a renovation project. The Applicants propose to renovate a porch, remove a portion of the existing driveway, and construct a new shed. The Village Code requires the Applicants to obtain a special permit from the Board of Managers to conduct the proposed demolition.

Applicable Law

The Applicants seek a special permit pursuant to the requirements of Section 8-19 of the Village Code, which provides as follows:

Any person intending to demolish, raze or tear down more than fifty (50) percent of the exterior features of an existing building, garage or accessory building within the Village must first obtain a special permit from the board of managers for such demolition in order to ensure that such work will be carried out in such a manner that abutting property owners will not be adversely affected and that the interests of the Village in public health, safety and welfare are not jeopardized by such work.

Procedural History

The Applicants submitted a written application dated April 25, 2011 for a special permit to demolish the existing detached garage located in the north (rear) yard of the Subject Property.

Notice of the hearing was mailed to all abutting property owners, posted at the Village Hall, and posted on the property on June 3, 2011. The notice indicated that the Board of Managers would hold a public hearing at the Village Hall on June 13, 2011 at 7:30 p.m. to consider the Applicants' request. The hearing was held as scheduled.

Summary of Evidence

In support of the request, the Applicants submitted the following: (i) the aforementioned application; (ii) a copy of the denied Village Building Permit Application; (iii) a location drawing showing the location of the garage; (iv) two letters each dated March 25, 2011 from the Applicants' contractor, Horizon HouseWorks, LLC, describing the proposed methods and steps of demolition; (v) a letter dated May 20, 2011 from Whitehall Associates concerning its lead-based paint inspection; (vi) a report dated May 16, 2011 from EMSL Analytical, Inc. concerning its asbestos inspection; (vii) a letter from the Applicants dated May 23, 2011 concerning asbestos discovered in the garage roof; (viii) a letter dated May 6, 2011 from Capitol Beltway Termite & Pest Control concerning its rodent and pest inspection; (ix) a copy of the Village Arborist's tree protection plan; (x) a copy of the Staff Report from the Montgomery County Historic Preservation Commission; (xi) a copy of the Applicants' Application for Historic Area Work Permit; (xii) architectural drawings depicting a proposed renovated porch and shed; (xiii) a copy of Horizon HouseWorks, LLC's certification to conduct lead-based paint removal; and (xiv) a copy of the certification of The Environmental Group (Horizon's subcontractor) to conduct asbestos removal. A copy of the covenants applicable to the Subject Property were entered into the record. Two photographs of the subject building and a staff report were submitted by Village staff for the record.

The Applicants contend that the proposed demolition would neither adversely affect the public health, safety, or welfare, nor the reasonable use of adjoining properties because, according to

the Applicants, the demolition would be conducted in accordance with all applicable laws and demolition permits and the Historic Area Work permit issued in conjunction with the project. The Applicants further state that the special permit can be granted without substantial impairment of the intent and purpose of Chapter 8 of the Village Code because the existing garage does not "architecturally relate" to the historic house and the house will continue to contribute to the historic character of the neighborhood.

The letter from Capitol Beltway Termite & Pest Control states that the garage was inspected and no evidence of rodent or other nuisance pest activity was found. The asbestos inspection report reveals that the garage roof contains asbestos-containing building materials in excess of federally-regulated quantities. Also, the lead-based paint inspection report reveals that the building contains lead-based paint. The Applicants' contractor explains that the garage roof would be removed by The Environmental Group, a certified asbestos removal company. The Applicants' contractor states that it would remove the lead-based paint, as it is a certified lead-paint abatement company. Also, the contractor explains that a certified lead renovation project manager would supervise the process.

The Applicants' contractor further states in its letter dated March 25, 2011, that the demolition would be conducted in accordance with the Village and Montgomery County Codes, as well as in accordance with the requirements of all permits, including the Historic Area Work Permit. The Applicants' contractor states that prior to the start of demolition, sediment control measures and tree protection devices would be installed. According to the contractor, the garage would be hosed down in order to minimize dust and water would be used throughout the process as needed. Dumpsters would be delivered and hauled away from the existing driveway onto Primrose Street and then directly onto Connecticut Avenue. Work crews would attempt to park on the Subject Property

as space permits and any street parking would be limited to Primrose Street. The Applicants estimate that the demolition will take 3 days, weather permitting.

The tree protection plan reflects that there is only one protected tree, a Red Maple, on the Subject Property. The tree protection plan requires tree protection measures be implemented, to protect the Red Maple tree, before the demolition takes place.

Michael Paré of Horizon House Works appeared at the hearing and testified in support of the request. He explained that all lead-based paint would be encapsulated in accordance with federal requirements. No testimony or other evidence in opposition to the proposed demolition was submitted.

Findings

Based upon the testimony and evidence of record, the Board of Managers makes the following findings in connection with this matter:

1. A professional inspector has determined that the building is free of rodents and other nuisance pests;
2. Although a professional inspector has determined that the building contains asbestos-containing building materials in excess of federally-regulated quantities, the materials would be removed in accordance with applicable regulations by a certified asbestos removal company;
3. Although a professional inspector has determined that the building contains lead-based paint in excess of federally-regulated quantities, the materials would be removed in accordance with applicable regulations by a certified lead paint removal company;
4. Sediment control measures and tree protection devices would be installed prior to the demolition;

5. Work crews would park on the Subject Property as space permits and any street parking would be limited to Primrose Street;

6. A review of the covenants applicable to the Subject Property reveals that they do not preclude the proposed demolition;

7. No correspondence or testimony in opposition to the application was presented; and

8. The lack of objection from any neighbor leads to the conclusion that the proposed demolition would not interfere with the reasonable use of adjoining properties.

Conclusions

Based upon the foregoing findings, the Board concludes that:

1. The special permit is authorized by the Village building regulations;

2. The special permit will not adversely affect the public health, safety, or welfare nor the reasonable use of adjoining properties;

3. The special permit can be granted without substantial impairment of the intent and purpose of the building regulations; and

4. The special permit will not violate any covenant applicable to the Subject Property.

Grant of Special Permit

Accordingly, the requested special permit to demolish the existing detached garage is granted subject to the following conditions:

1. Before a Village permit is issued, the Applicants shall have obtained a Montgomery County demolition permit;

2. The demolition shall be performed in accordance with the Applicants' representations submitted for the record of this matter;

3. The demolition shall be performed in accordance with the requirements of the Village Noise Ordinance;

4. The demolition shall be performed in accordance with all applicable local, state, and national health and safety codes and regulations; and

5. The special permit hereby granted shall expire if demolition is not completed on or before June 13, 2012.

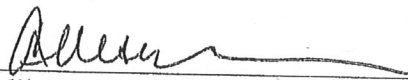
Resolution

The Chevy Chase Village Board of Managers hereby adopts the following Resolution:

BE IT RESOLVED by the Board of Managers of Chevy Chase Village that the Decision stated above be adopted as the decision required by Section 8-12(d) of the Chevy Chase Village Code, and the Village Manager be and hereby is authorized and directed to issue a permit for the demolition of the detached garage upon the conditions, terms, and restrictions set forth above.

The foregoing Decision and Resolution was adopted by the Chevy Chase Village Board of Managers, with the following members voting in favor: Patricia S. Baptiste, Gary Crockett, Dr. Lawrence C. Heilman, Peter T. Kilborn, Richard Ruda, Allison W. Shuren, and David L. Winstead.

I DO HEREBY CERTIFY that the foregoing Decision and Resolution were approved and adopted by the Chevy Chase Village Board of Managers on this 8 day of July, 2011.


Allison W. Shuren, Secretary
Board of Managers

**CHEVY CHASE VILLAGE
NOTICE OF PUBLIC HEARING**

Please take notice that the Chevy Chase Village Board of Managers will hold a public hearing on the 18th day of March, 2013 at 7:30 p.m. The hearing will be held at the Chevy Chase Village Hall at 5906 Connecticut Avenue in Chevy Chase, Maryland.

**APPEAL NUMBER A-6266-Revised
MR. & MRS. ALEX STERNHELL
27 PRIMROSE STREET
CHEVY CHASE, MARYLAND 20815**

The applicants seek a variance from the Board of Managers pursuant to Section 8-11 of the Chevy Chase Village Building Code to reconfigure a pair of existing front steps that would encroach a maximum of **eleven feet, five and one-half inches (11'-5 ½")** forward of the twenty-five (25) foot front (Primrose Street) building restriction line.

The Chevy Chase Village Code § 8-17 (c) states:

No structure or play equipment of any description shall be erected within twenty-five (25) feet of the front line of any lot.

Additional information regarding this appeal may be obtained at the Chevy Chase Village Office between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday, may be viewed on the Village website at www.chevychasevillagemd.gov or you may contact the office for this information to be mailed to you.

This notice was mailed to abutting and confronting property owners on the 13th day of March, 2013.

**Chevy Chase Village Office
5906 Connecticut Avenue
Chevy Chase, Maryland 20815
301-654-7300**

MAILING LIST FOR APPEALS A-6266

**MS. KRISTY-LYNN SKUPA STERNHELL &
MR. ALEXANDER M. STERNHELL
27 PRIMROSE STREET
CHEVY CHASE, MD 20815**

Adjoining and confronting property owners	
Mr. & Mrs. Edward F. Dunne Or Current Resident 30 Quincy Street Chevy Chase, MD 20815	Mr. & Mrs. Stephen Mysliwicz Or Current Resident 32 Quincy Street Chevy Chase, MD 20815
Mr. & Mrs. David M. Abbey Or Current Resident 34 Quincy Street Chevy Chase, MD 20815	Ms. Ruth Katz Or Current Resident 29 Primrose Street Chevy Chase, MD 20815
Mr. & Mrs. Bruce R. Baschuk Or Current Resident 36 Primrose Street Chevy Chase, MD 20815	Mr. & Mrs. R. Scott Faley Or Current Resident 25 Primrose Street Chevy Chase, MD 20815
Mr. & Mrs. William Mills Or Current Resident 100 Primrose Street Chevy Chase, MD 20815	Ms. Tamara Harris Or Current Resident 101 Primrose Street Chevy Chase, MD 20815
Mr. & Mrs. Chip Lindsay Or Current Resident 28 Primrose Street Chevy Chase, MD 20815	Mr. & Mrs. Thomas K. Bourke Or Current Resident 36 Quincy Street Chevy Chase, MD 20815

ES


I hereby certify that a public notice was mailed to the aforementioned property owners on the 7th day of March 2013.

**Ellen Sands
Permitting and Code Enforcement Coordinator
Chevy Chase Village
5906 Connecticut Avenue
Chevy Chase, MD 20815**

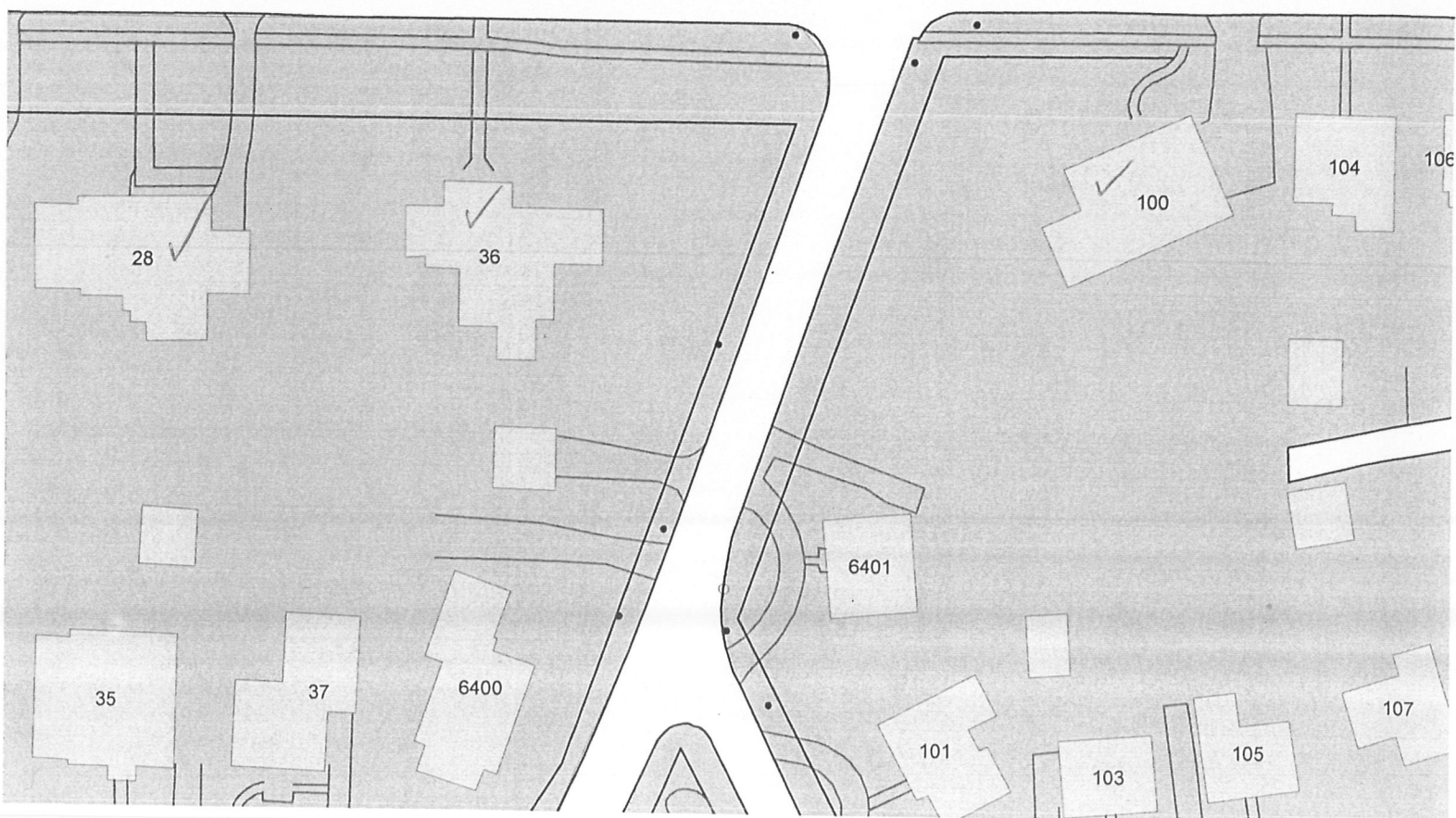
MAILING LIST FOR APPEAL A-6266-REVISED

**MS. KRISTY-LYNN SKUPA STERNHELL &
MR. ALEXANDER M. STERNHELL
27 PRIMROSE STREET
CHEVY CHASE, MD 20815**

Adjoining and confronting property owners	
Mr. & Mrs. Edward F. Dunne Or Current Resident 30 Quincy Street Chevy Chase, MD 20815	Mr. & Mrs. Stephen Mysliwicz Or Current Resident 32 Quincy Street Chevy Chase, MD 20815
Mr. & Mrs. David M. Abbey Or Current Resident 34 Quincy Street Chevy Chase, MD 20815	Ms. Ruth Katz Or Current Resident 29 Primrose Street Chevy Chase, MD 20815
Mr. & Mrs. Bruce R. Baschuk Or Current Resident 36 Primrose Street Chevy Chase, MD 20815	Mr. & Mrs. R. Scott Faley Or Current Resident 25 Primrose Street Chevy Chase, MD 20815
Mr. & Mrs. William Mills Or Current Resident 100 Primrose Street Chevy Chase, MD 20815	Ms. Tamara Harris Or Current Resident 101 Primrose Street Chevy Chase, MD 20815
Mr. & Mrs. Chip Lindsay Or Current Resident 28 Primrose Street Chevy Chase, MD 20815	Mr. & Mrs. Thomas K. Bourke Or Current Resident 36 Quincy Street Chevy Chase, MD 20815


I hereby certify that a public notice was mailed to the aforementioned property owners on the 13th day of March 2013.

**Ellen Sands
Permitting and Code Enforcement Coordinator
Chevy Chase Village
5906 Connecticut Avenue
Chevy Chase, MD 20815**





March 7, 2013

Mr. & Mrs. Alex Sternhell
27 Primrose Street
Chevy Chase, MD 20815

Dear Mr. & Mrs. Sternhell:

Please note that your request to reconfigure the pair of steps at your property is scheduled before the Board of Managers on Monday, March 18, 2013 at 7:30 p.m.

Either you or another representative must be in attendance to present your case. At that time, additional documents may be introduced and testimony can be provided in support of the request.

For your convenience, enclosed please find copies of the Public Hearing Notice and mailing list. Please contact the Village office in advance if you are unable to attend.

Sincerely,

Ellen Sands
Permitting and Code Enforcement Coordinator
Chevy Chase Village

Enclosures

**Chevy Chase Village
Building Permit Application**

Permit No: A-6266

Property Address: 27 Primrose Street, Chevy Chase Village	
Resident Name: Alex & Kristy Sternhell	
Daytime telephone: (301) 656-0209	Cell phone: (202) 441-5105 (Kristy)
After-hours telephone:	(202) 744-0204 (Alex)
E-mail: kssternhell@sternhellgroup.com	
Project Description: Construction of steps & cheek walls at sidewalk and associated bluestone landing adjacent to brick sidewalk; installation of lamp post in Primrose Street right-of-way; <u>construction of reconfigured steps at two ends of existing front porch;</u> demolition of 12" of short walls at two ends of front porch.	
<input type="checkbox"/> Check here if the construction will require the demolition of over fifty (50) percent of any existing structure.	
Primary Contact for Project:	
<input type="checkbox"/> Resident	<input checked="" type="checkbox"/> ^{Landscape} Architect
<input type="checkbox"/> Project Manager	<input type="checkbox"/> Contractor*
*MHIC/MD Contractor's License No. (required):	
Information for Primary Contact for Project (if different from property owner):	
Name: Lila Fendrick	
Work telephone: (301) 907-7700 x15	After-hours telephone:
Cell phone: (301) 908-4797	
E-mail: team@fendrickdesign.com	
Will the residence be occupied during the construction project? X Yes No	
If no, provide contact information for the party responsible for the construction site (if different from above):	
Name:	
Address:	
Work telephone:	After-hours telephone:
Cell phone:	
E-mail:	
Parking Compliance:	
Is adequate on-site parking available for the construction crews? X Yes No	
If no, please attach a parking plan which minimizes inconvenience to neighboring residents, and indicate if the property is in a permit parking area.	
Will road closings be required due to deliveries, equipment or other reasons? Yes X No	

Building Permit Filing Requirements:
Application will not be reviewed until the application is complete

- ☐ Copy of stamped drawings approved by Montgomery County Department of Permitting Services (DPS) and the Historic Preservation Commission (HPC), if required. Every page of drawings must be clearly stamped.
- ☐ This application form, signed by resident.
- ☒ Boundary Survey
- ☒ Site Plan (see: Village Site Plan Checklist to ensure completeness)
- ☐ Building plans and specifications
- ☐ Tree Preservation Plan requested of Village arborist (see: Village Tree Inspection Request form). All required tree protections must be fully installed before any work begins.
- ☒ Filing Fee (due at time of application). Fees schedule is listed in Chapter 6 of the Village Code.
- ☐ Damage deposit or performance bond (due when Building Permit is issued). Amount of required deposit or bond will be set by Village Manager.

Once this permit application is complete, the Village Manager will review the application and accompanying documents and, under most circumstances, act on the application within 5 to 10 working days.

If the Montgomery County permit is suspended, revoked or lapsed, the Village permit is automatically suspended, revoked or lapsed.

No signs advertising the architect, contractor, or any other service provider may be posted on the work site.

I hereby certify that I have the authority to make the foregoing application, that the application is correct, that I have read and understood all requirements and that the construction will conform to the regulations of the Montgomery County Zoning Code, the Village Code including Urban Forest code, and any covenants and easements on the subject property.

Applicant's Signature: _____

Kathy Skyelee
Al SA

Date: _____

4/23/13

<i>To be completed by Village staff:</i>			
Is this property within the historic district?	<input checked="" type="radio"/> Yes	<input type="radio"/> No	Staff Initials: <i>BB</i>
Date application filed with Village: <i>4/23/13</i>	Date permit issued: _____		Expiration date: _____

For Use By Village Manager 	Application approved with the following conditions:
For Use By Village Manager <div style="border: 1px solid black; padding: 5px; display: inline-block;"> DENIED JAN 23 2013 Chevy Chase Village Manager </div>	Application denied with the following reasons: <i>Handwritten:</i> The reconfigured steps encroach forward of the front building restriction line.

Filing Fees (due when application submitted)	Checks Payable to: Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815
Permit Application Fee: \$ <u>50.00</u> (see Permit Fee Worksheet) <input checked="" type="checkbox"/> \$50.00 (if construction is in the Public Right-of-way) <i>check #350</i>	
Tree Preservation Plan Fee: <input type="checkbox"/> \$250.00 <i>previously assessed</i> <input checked="" type="checkbox"/> Not required for this project.	
TOTAL Fees: <u>\$50.00</u>	Date: <u>1/23/13</u> Staff Signature: <i>[Signature]</i>
Damage Deposit/Performance Bond (due when permit is issued)	Checks Payable to: Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815
<input type="checkbox"/> \$ _____ <input type="checkbox"/> Waived by Village Manager	Date: Village Manager Signature:
Cost of damage to R-O-W: (calculated at close-out) Amount of refund:	Date: Village Manager Signature:

Chevy Chase Village Application for a Variance

A variance is permission granted to a landowner to depart from the specific requirements of the Village zoning ordinance and allows a landowner to use land differently than specified in the ordinance. The variance is a written authorization from the Board of Managers permitting construction in a manner not otherwise allowed by the Village Code.

Subject Property: 27 Primrose Street, Chevy Chase Village	
Describe the Proposed Project: Demolish 12" of wall at two ends of non-conforming front porch wall to reconfigure steps. Rebuild steps at two ends of front porch wall; proposed east and west steps to project 12'-6 1/2" into the 25'-foot setback.	
Applicant Name(s) (List all property owners): Alex & Kristy Sternhell	
Daytime telephone: (301) 656-0209	Cell: (202) 441-5105 (Kristy)
E-mail: ksternhell@sternhellgroup.com	
Address (if different from property address):	
For Village staff use:	
Date this form received: 1/23/13	Variance No: A-6266

Filing Requirements:

Application will not be accepted or reviewed until the application is complete

- ☐ Completed *Chevy Chase Village Application for a Variance* (this form)
- ☐ Completed *Chevy Chase Village Building Permit Application*
- ☐ A boundary survey or plat diagram with a margin of error of one tenth of a foot or less showing all existing structures, projections and impervious surfaces.
- ☐ Surveys, plats, engineering reports, construction plans/specifications or other accurate drawings showing boundaries, dimensions, and area of the property, as well as the location and dimensions of all structures/fences/walls/etc., existing and proposed to be erected, and the distances of such structures/fences/walls/etc., from the nearest property lines. These drawings shall incorporate and display reference dimensions from the boundary survey or plat diagram required above.
- ☐ Copy of Covenants applicable to the property except for variances from Sections 8-22, 8-26 or Article IV of Chapter 8 of the Chevy Chase Village Code.
- ☐ Variance fee (See fee schedule listed in Chapter 6 of the Village Code).

Affidavit

I hereby certify that I have the authority to submit the foregoing application, that all owners of the property have signed below, that I have read and understand all requirements and that I or an authorized representative will appear at the scheduled public hearing in this matter. I hereby authorize the Village Manager, or the Manager's designee, and/or the Board of Managers to enter onto the subject property for the purposes of assessing the site in relation to this variance request. I hereby declare and affirm, under penalty of perjury, that all matters and facts set forth in the foregoing application are true and correct to the best of my knowledge, information and belief.

Applicant's Signature: Kristy Sternhell

Date: 1/23/13

Applicant's Signature: Alex Sternhell

Date: 1/23/13

Describe the basis for the variance request (attach additional pages as needed).

Describe the special conditions of the property (e.g., odd shape, small size, sloping topography, abuts state highway, etc.) and how the property compares to other properties in the Village:

See attached statement in support of variance.

Describe how enforcement of the building regulations would result in an unwarranted hardship and injustice because of the special condition(s) described above (i.e., describe (i) the unwarranted hardship and injustice that you claim exists and (ii) how the special conditions cause that unwarranted hardship and injustice):

See attached statement in support of variance.

Describe how the proposed variance most nearly accomplishes the intent and purpose of the requirements of Chapter 8 of the Chevy Chase Village Code, entitled *Buildings and Building Regulations*:

See attached statement in support of variance.

In exercising its powers in connection with a variance request, the Chevy Chase Village Board of Managers may reverse or affirm, wholly or partly, or may modify the requirement, decision or determination as it deems appropriate.

Variance Filing Fee <i>Per Village Code Sec. 6-2(a)(24):</i> <input checked="" type="checkbox"/> \$300.00 for new construction. <input type="checkbox"/> \$150.00 for replacing existing non-conformities. <input type="checkbox"/> \$300.00 for fences, walls, play equipment, trees, hedges, shrubbery in the public right-of-way. <input type="checkbox"/> Other: \$ _____ <i>check # 3513</i> Fee Paid: <i>\$300.00</i>	Checks Payable To: Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815 Date Paid: <i>1/23/13</i> Staff Signature: <i>[Signature]</i>
	Approved to Issue Building Permit per Board Decision Signed by the Board Secretary on: Date: _____ Signature: _____ Village Manager

LILA FENDRICK

landscape architecture & garden design

March 14, 2013

Ms. Patricia S. Baptiste, Chair of Board of Managers
Board of Managers, Chevy Chase Village
5906 Connecticut Avenue
Chevy Chase, MD 20815

Dear Madame Chairwoman and Board,

Below please find our description of the Sternhell project at 27 Primrose Street, for which we are requesting a Variance, and our reasoning for why we believe this Variance should be granted. Please let us know if we can offer any additional information or clarify anything in this letter prior to our Variance hearing on March 18, 2013.

I. Prior History

The Variance Application refers to proposed steps from the existing front porch of 27 Primrose Street. A prior application to build front porch steps centered on the front door was denied in Spring 2012 by the Montgomery County Historic Preservation Commission (HPC) and the Board of Appeals. The design in the prior application had been proposed as a means to address safety concerns created by the current conditions. The design intent was to direct pedestrian traffic away from the driveway, which has been the primary visible entryway to the house, and ensure that children would not be directed from the front porch immediately into the driveway, where they would be in danger of being hit by a car that would be unable to see them. The applicants hoped to address this hazardous layout by creating an alternative, safer entrance and closing off the east side-loading stairs.

Following the denial, the owners worked with the HPC Staff to come up with a revised design. This revised design includes removing 1'-0" from the ends of each "wing wall" to the east and west of the front porch center wall and rebuilding the steps to turn as they reach grade so they face the street. This proposed step design would address issues of safety on the east side, maintain the central front porch wall, make minimal changes to the wing walls, and maintain the historic integrity of the house while addressing the safety and visibility concerns of the owners. By directing pedestrian traffic away from the driveway and toward the public sidewalk the applicants would be able to solve the issues that the initial application sought to address. During a Preliminary Consultation with HPC on February 27, 2013, HPC indicated that it would approve a Historic Area Work Permit for the proposed redesign of the porch steps.

II. Description of Proposed Construction

This application for a Variance refers to the proposed construction of steps at the east and west ends of the front porch at 27 Primrose Street and modification to the existing "wing walls" of the

front porch wall to accommodate the new steps. The proposed construction involves the removal of the outermost 1'-0" of the lower wall extensions on either side of the front porch wall and the reconstruction of steps so that they are visible and accessible from the front of the property. The intent is to make entering and exiting the residence safer and more inviting.

III. Need for Variance

Section 8-17(c) of the Chevy Chase Village Code provides that "No structure or play equipment of any description shall be erected within twenty-five (25) feet of the front line of any lot."

However, section 8-11(c) provides that the Board of Managers may grant a Variance if it finds that the proposed Variance is (1) "required because special conditions exist whereby the enforcement of the requirements of [the building regulations] would result in unwarranted hardship and injustice to the owner;" (2) "would most nearly accomplish the intent and purpose of the requirements of [the building regulations];" and (3) "the structure authorized by the proposed Variance would not violate any covenant applicable to the property."

The proposed construction described in **Section II** of this letter would encroach a maximum of 11'-5 1/2" in front of the 25'-0" Front Building Restriction Line of the property, necessitating a Variance. This application for a Variance proposes that a Variance may be granted because the three conditions described above are met, as described in **Section V** of this letter.

IV. Non-Conforming Condition

The existing front porch and steps are a non-conforming structure; the existing front porch already encroaches 9'-7" beyond the 25'-0" front Building Restriction Line and the existing overhang of the porch roof encroaches 11'-11 1/2" beyond the 25'-0" front Building Restriction Line. **This porch roof overhang is already 6" further beyond the 25'-0" BRL than the proposed work would encroach (11'-5 1/2").** This non-conforming condition of front porches and steps projecting beyond the 25'-0" BRL is the case at most of the properties along Primrose between Connecticut Avenue and Brookville road. These properties include 4 Primrose Street, 6 Primrose Street, 7 Primrose Street, 8 Primrose Street, 9 Primrose Street, 11 Primrose Street, 17 Primrose Street, 21 Primrose Street, 22 Primrose Street, 23 Primrose Street, 25 Primrose Street, 27 Primrose Street (the Subject Property), and 29 Primrose Street.

There is precedent for granting Variances to non-conforming properties on this block for work beyond the Front Building Restriction Line, specifically Case A-4504 (2002) concerning the request of Mr. and Mrs. Stewart W. Bainum, Jr. of 12 Primrose Street. In this case the Bainums submitted a location drawing prepared by Drum, Snell & Associates, LC, Civil Engineers and Land Surveyors, showing the setbacks of houses, covered stoops, and other improvements for each property on Primrose Street between Connecticut Avenue and Brookville Road. The location drawing and photographs of properties revealed that all of the properties listed above have porches and covered stoops that encroach into the 25'-0" front setback along Primrose street by an extent of at least 5'-6" or greater. This fact was used to justify the Variance Application for that case, in which the Variance was granted. It was also referenced in Case A-5952 (2011), in which the board granted a Variance for the construction of a terrace on the west side of the Subject Property and a connection from this terrace to the existing front porch.

V. Fulfillment of Sections 1-3 of Section 8-11(c) of Village Code

This section of the code provides that the Board of Managers may grant a Variance if it finds the proposed Variance

- (1) "is required because special conditions exist whereby the enforcement of the requirement of [the building regulations] would result in unwarranted hardship and injustice to the owner;"
- (2) "would most nearly accomplish the intent and purpose of the requirements of [the building regulations];"
- (3) "the structure authorized by the proposed Variance would not violate any covenant applicable to the property."

1. Unwarranted hardship and injustice to the owner

The Variance is required because of special conditions at the property. The existing east side-loading steps are close to the driveway and create a hazard for small children. The side-loading entrances to the porch are currently obscured by the "wing walls" on the east side and the existing Southern Magnolias on the West side, creating both confusion on how to enter the house and a safety hazard at the driveway. Any alteration of the steps and adjacent area to address these issues would necessitate a Variance, as the steps as they are currently built already encroach beyond the 25'-0" Front Building Restriction Line by 9'-7". Denial of the Variance would result in an unwarranted hardship and injustice to the owner because the applicants would be unable to access the east side steps safely, provide more visible access to the house on the west side, and maintain the symmetrical design of the front porch.

2. Intent and purpose of the requirements of the building regulations

The proposed Variance would most nearly accomplish the intent and purpose of the requirements of Chapter 8 of the Village Code. Among the various intents and purposes of the Village Code are to maintain open vistas along Village streets and to provide for the adequate flow of light and air. The proposed change to the steps and wing walls would not materially block any vista, nor would they materially interfere with the flow of light and air along Primrose Street.

Another purpose of the Village code is to maintain the character of the neighborhood. The proposed change to the steps and wing walls would not alter the character of the neighborhood and would be architecturally consistent with the existing house. This is supported by the Montgomery County Historic Preservation Commission's indication, during a Preliminary Consultation on February 27th, 2013, that they would approve the proposed design for a Historic Area Work Permit when that application is formally reviewed on March 27th, 2013.

3. Covenants applicable to the property

A covenant applicable to the property imposed by the Chevy Chase Land Company provides that, "no structure of any description shall be erected within twenty-five (25) feet of the front line of

said premises." However, the existing house is non-conforming in that that the front porch already encroaches 9'-7" into the 25'-0" from the front property line.

This is the case with most of the houses along the block of Primrose Street between Connecticut Avenue and Brookville Road. In previous cases concerning the same conditions it has been ruled that uncovered steps from grade are not considered "structures" for the purposes of covenants, although they are still considered "structures" in terms of building code. The steps proposed at the east and west ends of the front porch are uncovered and run to grade. They therefore fit the same description as other steps that have been granted Variances because the covenant described above does not apply to them.

Additionally, this application proposes that the covenant should be considered unenforceable at this property for two reasons. One reason is that the large number of similarly non-conforming properties, ones in which the existing structure encroaches beyond the 25'-0" BRL, described in **Section IV** of this letter, indicates that the covenant has already been violated and is hence no longer enforceable. A second reason is that the violations described occurred at the time the homes were constructed, indicating that this particular covenant was never enforced and is therefore no longer enforceable.

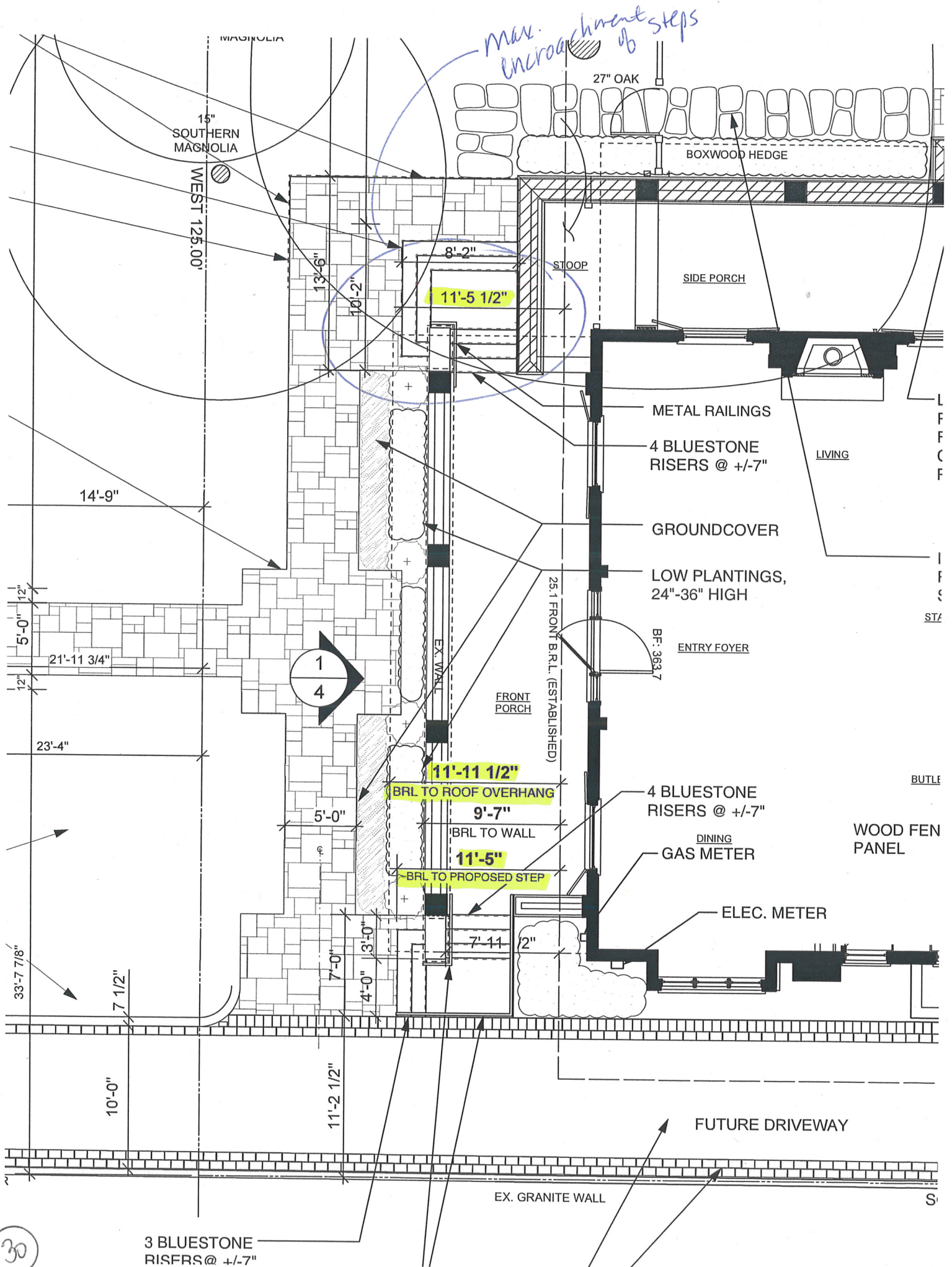
In Case A-5952 (2011), described in **Section IV** of this letter, it was established that "the evidence reveals that porches, stoops, and porticos along Primrose Street between Connecticut Avenue and Brookville Road historically have not been constructed in accordance with the subject 25-foot front setback; In view of the foregoing, the proposed terrace would not alter the established building line on Primrose Street between Connecticut Avenue and Brookville Road; and the proposed terrace would not materially violate any enforceable covenant applicable to the Subject Property." This Variance application asserts that the same reasoning should be applied to the proposed construction at the east and west ends of the front porch at 27 Primrose Street to conclude that the covenant cannot be considered enforceable at this property.

For these reasons, we respectfully request that a Variance be granted to the property owners of 27 Primrose to make the proposed changes to the east and west steps and wing walls of the front porch.

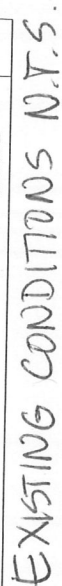
Sincerely,



Lila Fendrick, ASLA



KEY





7532 Wyoming Street Kansas City, MO 64114 (816) 216-7085

Every year, thousands of children are hurt or die because a driver backing up didn't see them. These incidents for the most part take place in residential driveways or parking lots.

- The predominant age of victims are one year olds. (12-23 months)
- Over 60% of backing up incidents involved a larger size vehicle. (truck, van, SUV)
- Tragically, in over 70% of these incidents, a parent or close relative is behind the wheel.
- The Centers for Disease Control and Prevention 2/18/05 study reports over 2400 children are treated in hospital emergency rooms every year due a child being struck by or rolled over by a vehicle moving in reverse.

In the U.S. fifty children are being backed over by vehicles EVERY week. Forty-eight (48) are treated in hospital emergency rooms and at least two (2) children are fatality injured every WEEK.

Because we are driving larger, longer and higher vehicles we are seeing many more backover incidents. This problem is only going to get worse unless we work for better visibility behind the vehicles we drive. The government is currently working on a rear visibility standard that will be required of all motor vehicles sold or leased in the U.S. The National Highway Traffic Safety Administration has released a proposed rear visibility standard that would require all motor vehicles sold or leased in the U.S. come equipped with backup cameras by the year 2014. The rear visibility standard will be finalized by the end of year 2011.

Education and awareness of backovers will continue to be critical for years to come, despite the fact that new vehicles will all have backup cameras by 2014. That's because there are millions of older-model vehicles being driven that do not have this technology.

KidsAndCars.org urges all adults to heighten their awareness before they engage a vehicle into reverse; especially when children are present. Young children are impulsive and unpredictable; still have very poor judgment and little understanding of danger. In addition, young children do not recognize boundaries such as property lines, sidewalks, driveways or parking spaces. Toddlers have established independent mobility between the ages of 12-23 months, but the concept of personal safety is absent. Backovers are often the predictable consequence of a child following a parent into the driveway and standing behind their vehicle without their parent's knowledge.

Backovers can happen in ANY vehicle because all vehicles have a blind zone; the area behind a vehicle you cannot see from the driver's seat. The danger tends to increase with larger vehicles. It's always best to look carefully behind the vehicle before you get in and again before you put the car in gear to back up. Remember to back up slowly, and pay attention to your mirrors.



7532 Wyoming Street Kansas City, MO 64114 (816) 216-7085

KidsAndCars.org recommendations to keep children safe include:

- Walk around and behind a vehicle prior to moving it.
- Know where your kids are. Make children move away from your vehicle to a place where they are in full view before moving the car and know that another adult is properly supervising children before moving your vehicle.
- Teach children that “parked” vehicles might move. Let them know that they can see the vehicle; but the driver might not be able to see them.
- Consider installing cross view mirrors, audible collision detectors, rear view video camera and/or some type of back up detection device.
- Measure the size of your blind zone (area) behind the vehicle(s) you drive. A 5-foot-1-inch driver in a pickup truck can have a rear blind zone of approximately 8 feet wide by 50 feet long.
- Be aware that steep inclines and large SUV’s, vans and trucks add to the difficulty of seeing behind a vehicle.
- Hold children’s hand when leaving the vehicle.
- Teach your children to never play in, around or behind a vehicle and always set the emergency brake.
- Keep toys and other sports equipment off the driveway.
- Homeowners should trim landscaping around the driveway to ensure they can see the sidewalk, street and pedestrians clearly when backing out of their driveway. Pedestrians also need to be able to see a vehicle pulling out of the driveway.
- Never leave children alone in or around cars; not even for a minute.
- Keep vehicles locked at all times; even in the garage or driveway.
- Keys and/or remote openers should never be left within reach of children.
- Make sure all child passengers have left the car after it is parked.
- Be especially careful about keeping children safe in and around cars during busy times, schedule changes and periods of crisis or holidays.

These precautions can save lives. For additional information visit www.KidsAndCars.org



Every year, thousands of children are hurt or die because a driver moving forward very slowly didn't see them. These incidents for the most part take place in residential driveways or parking lots and are referred to as 'frontovers.' (the opposite of a backover)

- The National Highway Traffic Safety Administration January 2009 report (DOT HS 811 085) states that 'other' (not a backover) non-occupant nontraffic crashes are responsible for 393 deaths and 20,000 injuries per year.
- The predominant age of victims are one year olds. (12-23 months)
- Over 80% of "frontover" incidents involved a larger size vehicle. (truck, van, SUV)
- Tragically, in over 70% of these incidents, a parent or close relative is behind the wheel.

KidsAndCars.org urges all adults to heighten their awareness before they engage a vehicle into gear to move forward slowly; especially when children are present. Young children are impulsive and unpredictable; still have very poor judgment, and little understanding of danger. In addition, young children do not recognize boundaries such as property lines, sidewalks, driveways or parking spaces. Toddlers have established independent mobility between the ages of 12-23 months, but the concept of personal safety is absent. Frontovers are often the predictable consequence of a child following a parent into the driveway without their knowledge.

Frontovers can happen in any vehicle because all vehicles have a blind zone; the area in front of a vehicle where you can't see from the driver's seat. The danger tends to increase with larger vehicles. In general the blindzone in front of vehicles ranges from 6-8 feet.

It's always best to look carefully all the way around your vehicle before you get in and again before you put the car in gear. Remember to move forward slowly, and pay attention to children who may be running into the path of your vehicle.

KidsAndCars.org recommendations to keep children safe include:

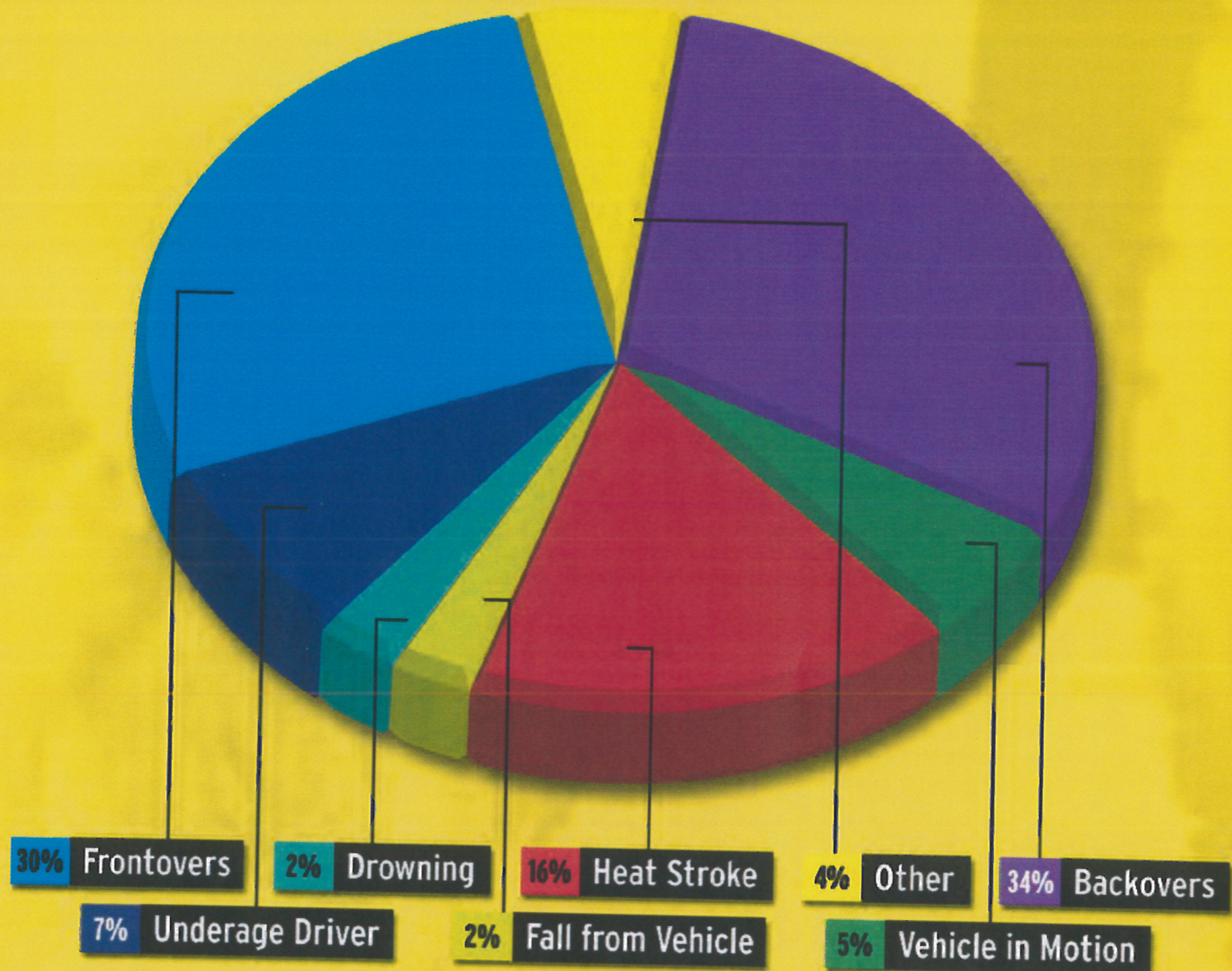
- Walk completely around and behind a vehicle prior to moving it.
- Know where your kids are. Make children move away from your vehicle to a place where they are in full view before moving the car and know that another adult is properly supervising children before moving your vehicle.
- Teach children that “parked” vehicles might move. Let them know that they can see the vehicle; but the driver might not be able to see them.
- Consider installing cross view mirrors, audible collision detectors, rear view video camera and/or some type of front sensor detection device.
- Measure the size of your blind zone (area) in front of the vehicle(s) you drive. Many drivers cannot see a young child 6-8 feet in front of larger vehicles.
- Be aware that steep inclines and large SUV’s, vans and trucks add to the difficulty of seeing around a vehicle.
- Hold children’s hand when leaving the vehicle.
- Teach your children to never play in or around a vehicle.
- Keep toys and other sports equipment off the driveway.
- Homeowners should trim landscaping around the driveway to ensure they can see the sidewalk, street and pedestrians clearly when backing out or entering their driveway. Pedestrians also need to be able to see a vehicle pulling out of the driveway.
- Never leave children alone in or around cars; not even for a minute.
- Keep vehicles locked at all times; even in the garage or driveway and always set your parking brake.
- Keys and/or remote openers should never be left within reach of children.
- Make sure all child passengers have left the car after it is parked.
- Be especially careful about keeping children safe in and around cars during busy times, schedule changes and periods of crisis or holidays.

These precautions can save lives.

For additional information, visit www.KidsAndCars.org

U.S. CHILD FATALITIES BY TYPE (2006 - 2010)

Nontraffic Fatalities Involving Children < 15 Years Old



KIDS AND CARS.ORG™

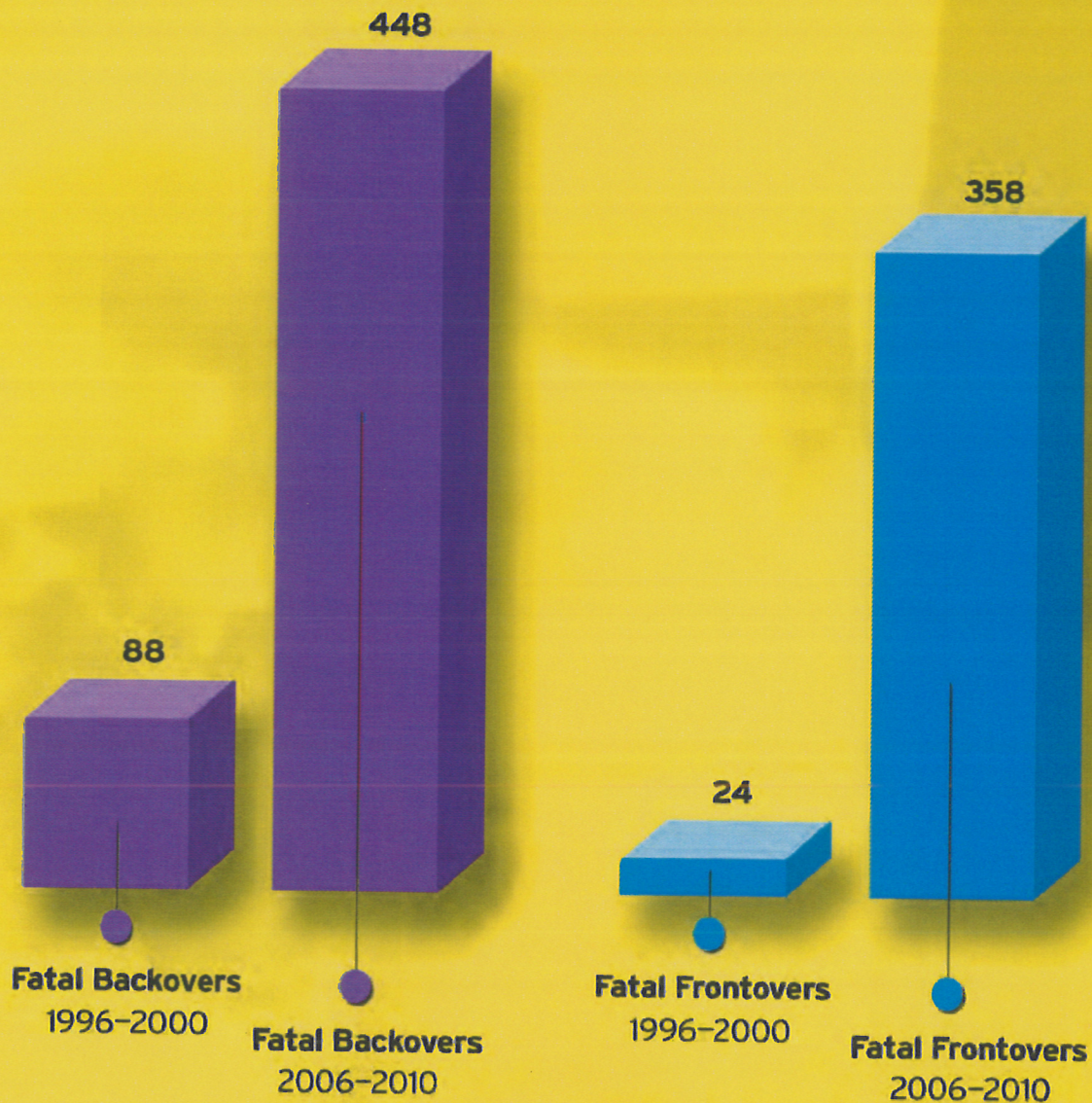
LOVE THEM, PROTECT THEM

www.KidsAndCars.org

Data Source: KidsAndCars.org

9/22/2011

LACK OF VISIBILITY CAUSES BACKOVER AND FRONTOVER FATALITIES TO CHILDREN



LOVE THEM, PROTECT THEM

www.KidsAndCars.org

Data Source: KidsAndCars.org

Examined

At the request of Mary Stella Heister the following Deed was recorded September 12th A.D. 1908 at 9 o'clock A.M., to wit:

THIS INSTRUMENT, Made this 24th day of July A.D. 1908;

WITNESSETH, That The Chevy Chase Land Company, of Montgomery County, Maryland, (a corporation duly organized under and by virtue of the laws of the State of Maryland), party hereto of the first part, for and in consideration of two thousand (2,000) dollars, in current money of the United States, to it paid by Mary Stella Heister, of the District of Columbia, party hereto of the second part, receipt of which, at the delivery hereof, is hereby acknowledged, doth grant and convey unto and to the use of the said Mary Stella Heister, her heirs and assigns, the following described land and premises, with the easements and appurtenances thereto belonging, viz:

All that piece or parcel of land, situate, lying and being in Montgomery County, in the State of Maryland, and fronting on the North side of Primrose Street as extended, said street being shown by a plat of the subdivision made by The Chevy Chase Land Company, of Montgomery County, Maryland, known as Section Two, "Chevy Chase", as recorded in Liber J.A. No. 36, folio 61, of the Land Records of said Montgomery County, Maryland, and contained within the following: notes and bounds, viz:

BEGINNING for the same at a point in the North line of said Primrose Street as extended, distant fifty nine and 05/100 (59.05) feet West of the intersection of the said North line of Primrose Street as extended and the West line of Brookville Road, and running thence North and at right angles to said Street, one hundred and twenty five (125) feet; thence West and parallel with said street seventy (70) feet; thence South one hundred and twenty five (125) feet to the North line of said Street; and thence East along and with the North line of said Street seventy (70) feet to the place of beginning; containing eighty seven hundred and fifty (8750) square feet of land.

To Have and To Hold the said land and premises, with the easements and appurtenances, unto and to the use of the said Mary Stella Heister, party of the second part, her heirs and assigns, in fee simple.

In Consideration of the execution of this deed, the said party of the second part, for herself and for her heirs and assigns, hereby covenants and agrees with the said party of the first part, its successors and assigns (such covenants and agreements to run with the land and to be for the mutual benefit of all portions of the Section of the subdivision of which the land hereby conveyed forms a part) as follows:

1. All houses upon the premises hereby conveyed shall be built and used for residence purposes exclusively, except stables, carriage houses, sheds, or other outbuildings, for use in connection with such residences, and no trade, business, manufacture or sales or nuisance of any kind shall be carried on or permitted upon said premises.

2. That no structure of any description shall be erected within twenty five (25) feet of the front line of said premises, and no stable shall be erected except on the rear of said premises. In the case of corner lots any line bordering upon any street, avenue, or parkway shall be considered a front line.

3. That no house shall be erected on said premises at a cost less than three thousand (\$3,000) dollars.

as belonging,

as above de-
rights.

unto and to

specially
and hereby con-
the second par
said land;
equitable.

was made

all)

all)

scriber, a

1 full A.

dir act.

seal this

, D.C.

umary 6th

dated Septem-

county, pack-

ffice.

soon as

Feather & Assoc.

Tolbert V. Feather, Ph.D.

*Advisors for: Landscape Development
Landscape Management, Plant Pest Management*

Chevy Chase Village
5906 Connecticut Avenue
Chevy Chase, MD 20815

January 28, 2013

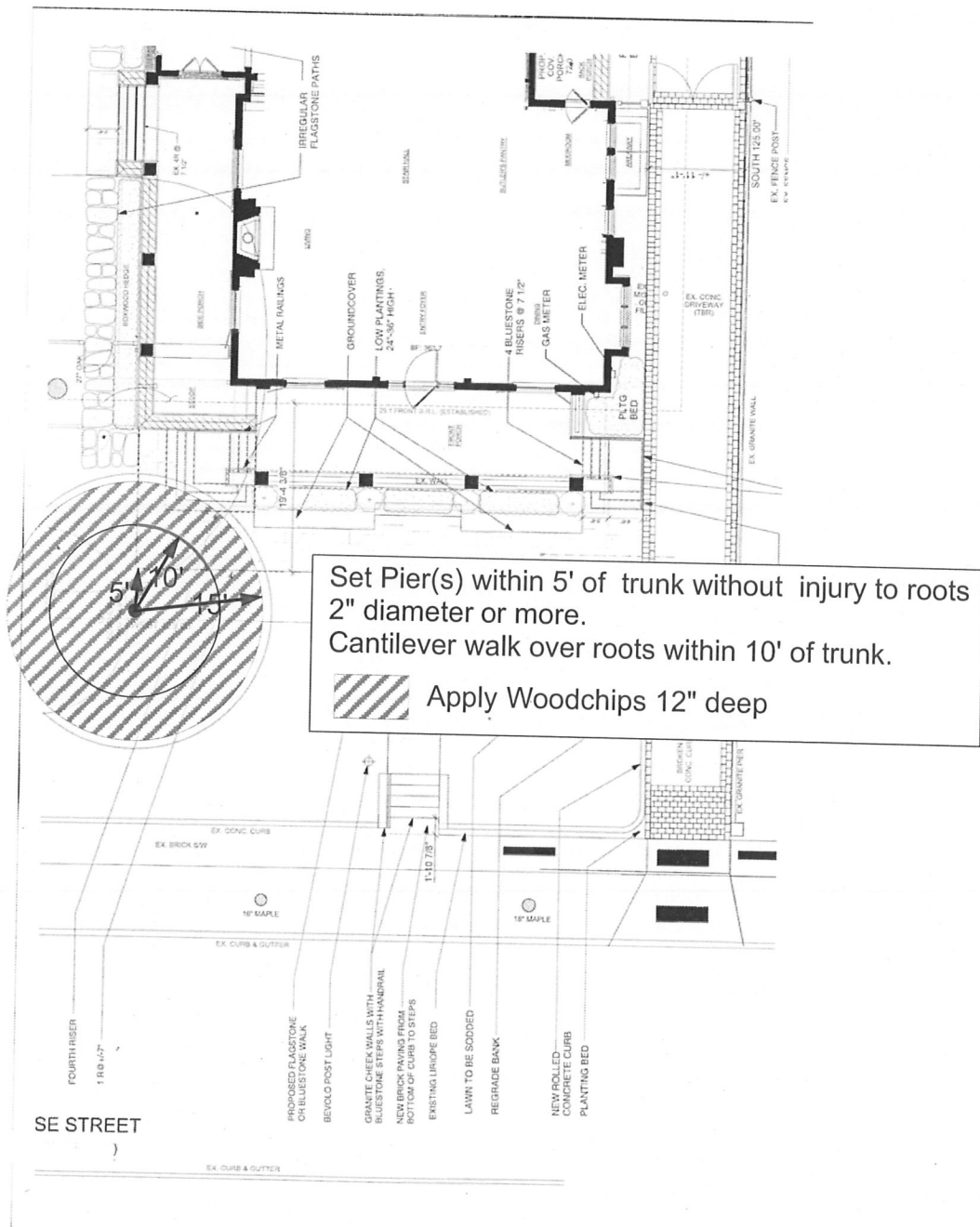
Tree Preservation Plan Guidelines Walkway Installation – 27 Primrose St.

Attached is a map of the tree protection plan guideline for the residence at 27 Primrose St.

1. Pier(s) shall be installed at least 5' away from the trunk without injury to roots 2" or more in diameter.
2. The walkway shall be cantilevered over the root area at least 10' away from the trunk.
3. Woodchips shall be applied in a 15' radius around the tree.

Chevy Chase Village
Tree Protection Plan Guidelines
Front Walkway Installation
27 Primrose St.

Feather and Associates
January 28, 2013
Scale 1" = 20'



CCV Permitting

From: Lila Fendrick Landscape Architecture [team@fendrickdesign.com]
Sent: Tuesday, January 22, 2013 6:51 PM
To: CCV Permitting
Subject: Grade Beam Text for 27 Primrose Property

Hello Ellen,

Thank you so much for meeting with me today. It was very helpful! Below is the text you saw from Lisa describing the grade beam. Please let us know if you have any questions!

The paving edge at the southwest corner of the walkway will be supported by a grade beam and pier footing system. Pier footings will be placed approximately 8'-10'-0" on center (to be decided by a structural engineer; locations may be adjusted in the field with Landscape Architect and Arborist review). The grade beam will be placed at or above existing grade and will support the paving edge between piers. This allows for a step-off condition at the edge of the paving as needed to meet existing grade near the Southern Magnolia with minimal excavation required.

Thank you,
Rachel Kunreuther, MLA
Lila Fendrick Landscape Architecture and Garden Design
6904 West Avenue
Chevy Chase, MD 20815
301-907-7700x14
301-907-7714 fax
team@fendrickdesign.com